

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

AUG 29 2019

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAYON J. FIPS, a/k/a "Dayon Ballard,"

Defendant.

Case No. S3-4:18CR00720 JAR

THIRD SUPERSEDING INDICTMENT

COUNT I

The Grand Jury charges that:

On or about August 22, 2018, in St. Louis County within the Eastern District of Missouri,
the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

did knowingly and intentionally possess, with the intent to distribute, a mixture or substance
containing a detectable amount of fentanyl, a Schedule II controlled substance, in violation of
Title 21, United States Code, Section 841(a)(1) punishable under Title 21, United States Code,
Section 841(b)(1)(C).

COUNT II

The Grand Jury further charges that:

On or about August 22, 2018, in St. Louis County within the Eastern District of Missouri, the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

did knowingly and intentionally use, carry, and possess a firearm in furtherance of a drug trafficking crime, to-wit: possession with the intent to distribute a mixture or substance containing a detectable amount of fentanyl as charged in Count I.

In violation of Title 18, United States Code, Section 924 (c)(1)(A) and punishable under Title 18, United States Code, Section 924(c)(1)(A)(i).

COUNT III

The Grand Jury further charges that:

On or about August 22, 2018, within the Eastern District of Missouri, the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

knowing that he had been previously convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did knowingly and intentionally possess in or affecting commerce, a firearm;

In violation of Title 18, United States Code, Section 922(g) and punishable under Title 18, United States Code, Section 924(a)(2).

COUNT IV

The Grand Jury further charges that:

On or about August 22, 2018, within the Eastern District of Missouri, the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

having been previously been convicted of a crime of violence, to-wit: Robbery in the First Degree, did knowingly and intentionally possess body armor, which was sold and offered for sale in interstate or foreign commerce, in violation of Title 18, United States Code, Section 931(a)(1) and punishable under Title 18, United States Code, Section 924(a)(7).

COUNT V

The Grand Jury further charges that:

On or about July 31, 2018, within the Eastern District of Missouri, the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

did knowingly and intentionally distribute a controlled substance to N.B., a person whose identity is known to this Grand Jury, in violation of Title 21, United States Code, Section 841(a)(1), and;

that the death of N.B. resulted from the use of such controlled substance distributed by defendant, making the offense punishable under Title 21, United States Code, Section 841(b)(1)(C).

COUNT VI

The Grand Jury further charges that:

On or about August 7, 2019 within the Eastern District of Missouri, the defendant,

DAYON J. FIPS, a/k/a "DAYON BALLARD,"

did knowingly and intentionally attempt to corruptly persuade another person with the intent to influence, delay, and prevent the testimony of such person in an official proceeding, and did take a substantial step in furtherance thereof, in violation of Title 18, United States Code, Section 1512(b)(1) and punishable under Title 18, United States Code, Sections 1512(b)(1) and (j).

FORFEITURE ALLEGATION

The Grand Jury further finds by probable cause that:

1. Pursuant to Title 21, United States Code, Sections 853(a), upon conviction of an offense in violation of Title 21, United States Code, Section 841(a)(1), as set forth in Counts I and V, the defendant shall forfeit to the United States of America any property, constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

2. Subject to forfeiture is a sum of money equal to the total value of any property, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the violations set forth in Counts I and V.

3. Pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), upon conviction of an offense in violation of Title 18, United States Code, Sections 922(g)(1) or 924(c) as set forth in Counts II and III, the defendant shall forfeit to the United States of America any firearm or ammunition involved in or used or intended to be used in said violations.

4. Specific property subject to forfeiture includes, but is not limited to, the following:

- a. Approximately \$17,981.00 U.S. Currency
- b. Smith and Wesson M&P Bodyguard .380 caliber pistol, serial number KDY0806
- c. HS Products XDM model .40 caliber pistol, serial number MG368332
- d. Taurus PT24/7 Pro LS .40 caliber pistol, serial number SAT52288

e. Ruger model 9E, 9 mm pistol, serial number 337-75251

f. CZ (Ceska Zbrojovka) model ZC75 D, 9 mm pistol, no serial number

5. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America will be entitled to the forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL.

FOREPERSON

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